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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,140	02/27/2002	Cory M. Panattoni	002558-067300US	4424

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EXAMINER	
YOON, TAE H	

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/087,140	PANATTONI, CORY M.
	Examiner	Art Unit
	Tae H Yoon	1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10-13 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the 5%-30%T (concentration) for the recited reaction mixture, does not reasonably provide enablement for about 5g (500%) to about 30g (3,000%) per milliliter of said aqueous solution. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

For example, 30g of acrylamide and bisacrylamide in 1 ml (or cc) of water is basically a solid, and polymerization and crosslinking would not occur. See the instant examples and lines 1-9 of the page 3 for concentration (T).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hochstrasser et al (US 5,292,665) in view of Alpenfels et al (US 5,753,095) or Lau et al (US 6,110,340).

Rejection is maintained for reason of record and following response.

Hochstrasser et al teach the instant composition even though only one (sodium thiosulfate) of the recited oxygen scavenger is taught, and thus any argument regarding the component has no probative value. The main issue in this rejection is whether the use of a plastic enclosure or mold of Alpenfels et al or Lau et al in Hochstrasser et al is obvious or not. The advantage of using said plastic enclosure or mold is known in the art after the invention of Hochstrasser et al. The examiner believes that it is a *prima facie* obviousness since the advantage of using said plastic enclosure or mold is well known at the time of the instant invention (note that the patented date of Hochstrasser et al is 1994 and Alpenfels et al (1998) and Lau et al (2000)). Glass plates are disadvantageous in that they are fragile and difficult to assemble, with breakage frequently occurring during shipping and handling of the gel molds, particularly in the precast gels (col. 3, lines 37-41 of Alpenfels et al). The plastic film providing the oxygen barrier in Alpenfels et al constitutes a part of the plastic enclosure or mold and the instant claim does not exclude the use of said plastic film.

Applicant asserts that Lau et al teach both glass and plastic in passing statement and fail to teach any plastic plate. But, the examiner disagrees with such assertion since Lau et al teach many injection molded plastic parts (for example, see col. 5, lines 1-2, 32-33 and 59-62).

Applicant failed to show any unexpected result of using plastic enclosure or mold with the composition of Hochstrasser et al.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alpenfels et al (US 5,753,095)) in view of Flesher et al (US 4,940,763) or Saunders et al (US 3,755,280).

Rejection is maintained for reason of record and following response.

Applicant asserts that there is no motivation to combine the above references since Alpenfels et al teach a crosslinked polyacrylamide gel and Flesher et al and Saunders et al teach a process for linear polymers of polyacrylamide with little crosslinking. However, it is well known in the polymer chemistry that the crosslinking density of polymers is mainly from the amount of crosslinking monomer(s) used, not from the redox catalyst (in case of vinyl monomers and polymers). Alpenfels et al teach that different percentage gels are obtained from different amounts of a crosslinker monomer (%T) at col. 1, line 52 to col. 2, line 4. Thus, the use of the art well known redox catalyst system of Flesher et al and Saunders et al in Alpenfels et al is a *prima facie* obviousness, and applicant failed to show otherwise.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tae H Yoon
Primary Examiner
Art Unit 1714

THY/March 12, 2004